

**IN THE UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MISSOURI  
SOUTHEASTERN DIVISION**

HELENA CHEMICAL COMPANY,	)	
	)	
Plaintiff,	)	
	)	
v.	)	Case No. 1:17-cv-0191-ACL
	)	
MARTY VANCIL d/b/a VANCIL FARMS,	)	
	)	
Defendant.	)	
	)	
MARTY VANCIL d/b/a VANCIL FARMS,	)	
	)	
Counterclaim Plaintiff,	)	
	)	
v.	)	
	)	
HELENA CHEMICAL COMPANY,	)	
STEVE HAWKINS, AND	)	
TRIP GILES,	)	
	)	
Counterclaim Defendants.	)	

**DEFENDANT/COUNTERCLAIM PLAINTIFF MARTY VANCIL  
d/b/a VANCIL FARMS' MOTION FOR REMAND AND SUGGESTIONS IN SUPPORT**

Defendant/Counterclaim Plaintiff Marty Vancil d/b/a Vancil Farms (õVancilö), pursuant to 28 U.S.C. § 1447(c), respectfully moves this Court for an Order remanding this case to the Circuit Court of Dunklin County, Missouri, as this Court does not have jurisdiction to hear this case. In support of this Motion, Vancil states as follows:

Helena Chemical Company (õHelenaö), a Delaware corporation with its principal place of business in Tennessee, filed this action against Vancil, a Missouri citizen, regarding Vancil's alleged failure to pay for various agricultural products and services provided by Helena. In filing this action in federal court, Helena asserted in its Complaint that the amount in controversy exceeded the requisite \$75,000.00 threshold and further alleged there was complete diversity of

citizenship as required by 28 U.S.C. § 1332(a). Despite Helena's claims to the contrary, there is not complete diversity of citizenship and this action should be remanded to the Circuit Court of Dunklin County, Missouri.

**Suggestions in Support of Order for Remand to Circuit Court of Dunklin County, Missouri**

In his Counterclaim, Vancil named Missouri citizens Steve Hawkins and Tripp Giles as Counterclaim Defendants. Vancil's joint and several claims for products liability, fraudulent misrepresentation, and breach of contract against Counterclaim Defendants Helena Chemical Company, Helena salesman and certified crop consultant/adviser Steve Hawkins, and Helena district and branch manager Tripp Giles arise out of the same transaction, occurrence, or series of transactions or occurrences as those set forth in the Complaint and there are questions of law and fact common to each Counterclaim Defendant in this action.

The party seeking to bring an action in federal court bears the burden of establishing subject matter jurisdiction in this Court. *See Paxton v. Markel Insurance Co.*, 2014 WL 12616783, \*1 (W.D. Mo. 2014)(citing *In Re Prempro Prods. Liab. Litig.*, 591 F.3d 613, 620 (8th Cir. 2010)). "All doubts about federal jurisdiction should be resolved in favor of remand to state court." *Hubbard v. Federated Mut. Ins. Co.*, [799 F.3d 1224](#), 1227 (8th Cir. 2015).

Where, as here, there is not complete diversity of citizenship among the Counterclaim Plaintiff and the Counterclaim Defendants to support this Court's jurisdiction, as required by 28 U.S.C. § 1332(a), this case should be remanded to the state circuit court.

Because Helena cannot carry its burden to establish jurisdiction in this Court, this case should be remanded to the Circuit Court of Dunklin County, Missouri from which all of the events set forth in the Complaint and Counterclaim arose.

WHEREFORE, for the reasons set forth herein and in Defendant/Counterclaim Plaintiff Marty Vancil d/b/a Vancil Farms respectfully requests this Court's Order remanding this case to the Circuit Court of Dunklin County, Missouri, for all further proceedings and for such other and further relief as this Court deems just and proper under the circumstances.

Respectfully submitted,

/s/Shannon Wright Morgan  
SHANNON WRIGHT MORGAN  
Federal Bar No. 50917MO

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ATTORNEYS FOR DEFENDANT / COUNTERCLAIM  
PLAINTIFF MARTY VANCIL d/b/a VANCIL FARMS

### **CERTIFICATE OF SERVICE**

The undersigned hereby certifies that a true and accurate copy of the foregoing was served upon all parties of record via the Court's electronic filing system on January 2, 2018.

/s/Shannon Wright Morgan  
SHANNON WRIGHT MORGAN